



Atty. Docket No. OLI02 P-350

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CERTIFICATE OF MAILING

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October 5, 2004

Date

Melanie S. Jernberg

Melanie S. Jernberg

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Examiner : Clark F. Dexter  
Art Unit : 3724  
Appln. No. : 09/586,943  
Applicant : Perry R. DeYoung  
Filing Date : June 2, 2000  
Confirmation No. : 6561  
For : AUTOMATIC COVER LATCH AND PRESSURE RELIEF  
SYSTEM FOR A DOUGH DIVIDER

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION - 37 CFR §41.37)

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on August 5, 2004.

2. **STATUS OF APPLICANTS**

This application is on behalf of:

\_\_\_ other than a small entity.

X a small entity.

A verified statement:

\_\_\_ is attached.

\_\_\_ was already filed.

3. **FEE FOR FILING APPEAL BRIEF**

Pursuant to 37 CFR §41.20(b)(2), the fee for filing the Appeal Brief is:

X small entity \$165.00

\_\_\_ other than a small entity \$330.00

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Appeal Brief fee due: \$165.00

4. **EXTENSION OF TERM**

The proceedings herein are for a patent application and the provisions of 37 CFR §1.136 apply.

*(complete (a) or (b), as applicable)*

(a) ☐ Applicant petitions for an extension of time under 37 CFR §1.136:

<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
<input type="checkbox"/> one month	\$110.00	\$55.00
<input type="checkbox"/> two months	\$420.00	\$210.00
<input type="checkbox"/> three months	\$950.00	\$475.00
<input type="checkbox"/> four months	\$1480.00	\$740.00

FEE: \$

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request: \$

*or*

(b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. **TOTAL FEE DUE**

The total fee due is:

Appeal Brief fee: \$165.00  
Extension fee (if any) \$0

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TOTAL FEE DUE: \$165.00

**6. FEE PAYMENT**

  x   Attached is a check in the sum of \$165.00.

       Charge Account No. 16 2463 the sum of \$       .

A duplicate of this transmittal is attached.

**7. FEE DEFICIENCY**

  x   If any additional extension and/or fee is required, this is a request therefor  
and to charge Account No. 16 2463.

*and/or*

  x   If any additional fee for claims is required, charge Account No.  
16 2463.

Respectfully submitted,

PERRY R. DEYOUNG

By: Price, Heneveld, Cooper,  
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10/5/04

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APPEAL BRIEF (37 CFR §41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on August 5, 2004.

The fees required under §41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 CFR §41.37(c)):

- I. Real Party in Interest
  - II. Related Appeals and Interferences
  - III. Status of Claims
  - IV. Status of Amendments
  - V. Summary of Claimed Subject Matter
  - VI. Grounds of Rejection to Be Reviewed on Appeal
  - VII. Argument
- Appendix of Claims Involved in the Appeal

The final page of this brief bears the attorney's signature.

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#### **I. Real Party in Interest**

The real party in interest in this application is Oliver Products Company. The assignment from the inventors to Oliver Products Company was recorded at Reel 010872, Frame 0099.

#### **II. Related Appeals and Interferences**

There are no related appeals or interferences pending during this application.

#### **III. Status of Claims**

Claims 1-66 are pending in this application. Claims 2, 35 and 40 have been indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph, set forth in the final Office Action. As discussed below, an amendment after appeal is being filed contemporaneously with this appeal brief wherein claims 2, 35 and 40 are rewritten into independent form. Claims 7, 8, 10-13, 23, 24, 27-30 and 63-66 have been withdrawn from consideration from the present application. However, Applicant has petitioned for withdrawal of the restriction requirement of claims 7, 8, 10-13, 23, 24, 27-30 and 63-66. While claims 1-6, 9, 14-22, 25, 26 and 31-62 are the subject of this appeal, withdrawn claims 7, 8, 10-13, 23, 24, 27-30 and 63-66 are all dependent claims which depend from claims that are the subject of this appeal. Accordingly, if the rejection of the claims is overturned and all claims subject to the appeal are allowed, Applicant submits that claims 7, 8, 10-13, 23, 24, 27-30 and 63-66 should be rejoined to the application and also allowed. All appealed claims are finally rejected.

#### **IV. Status of Amendments**

An amendment after appeal is being filed contemporaneously with this appeal brief. The amendment after appeal only rewrites claims 2, 35 and 40 into independent form as these claims have been indicated as being in condition for allowance if rewritten into independent form and if

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rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph, set forth in the final Office Action.

## **V. Summary of Claimed Subject Matter**

As described in the specification portion of the application (pages 1-14), and illustrated in the related figures (Figs. 1-8), the invention recited in the finally rejected claims relates to an automatic cover latch and pressure relief system for a dough divider.

An aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, a latch assembly 20 and a press plate 16. The lid 14 has an open position and a closed position. The latch assembly 20 is adapted to maintain the lid 14 in the closed position when activated and to discontinue maintaining the lid 14 in the closed position when deactivated. The press plate 16 is vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16. The press plate 16 is adapted to be driven towards the lid 14 in order to compress the food between the press plate 16 and the lid 14 within the hopper 12. The latch assembly 20 automatically activates to maintain the lid 14 in the closed position while the press plate 16 is being driven towards the lid 14.

Another aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, a latch assembly 20, a press plate 16 and a delay device 250. The lid 14 has an open position and a closed position. The latch assembly 20 is adapted to maintain the lid 14 in the closed position when activated and to discontinue maintaining the lid 14 in the closed position when deactivated. The press plate 16 is vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16. The press plate 16 is adapted to be driven towards the lid 14 in order to compress the food between the press plate 16 and the lid 14 within the hopper 12. The latch assembly 20 automatically activates to maintain the lid 14 in the closed position while the press plate 16 is being driven towards the lid 14. The delay device 250 is configured to delay the driving of the

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press plate 16 towards the lid 14 such that the latch assembly 20 is activated a predetermined amount of time before the press plate 16 is driven towards the lid 14.

Yet another aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, a latch assembly 20 and a press plate 16. The lid 14 has an open position and a closed position. The latch assembly 20 is adapted to maintain the lid 14 in the closed position when activated and to discontinue maintaining the lid 14 in the closed position when deactivated. The press plate 16 is vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16.

The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper. The latch assembly automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

A further aspect of the present invention is to provide a food press comprising a hopper with a lid, a latch assembly, a press plate and a delay device. The lid has an open position and a closed position. The latch assembly is adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated. The press plate is vertically slidable within the hopper, with the hopper being adapted to accept food between the lid and the press plate. The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper. The latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid. The press plate has a vertical stroke between a top of the hopper and a bottom of the hopper. The press plate is configured to move towards the bottom of the hopper when pressure applied to a top of the press plate from the food within the hopper reaches a predetermined level.

Another aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, a closure mechanism 20 and a press plate 16. The lid 14 has an open position and a closed position. The closure mechanism 20 comprises a first member on the lid 14 and a second member on the hopper 12 configured to interact to maintain the lid 14 in the

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closed position when the closure mechanism 20 is activated and to discontinue maintaining the lid 14 in the closed position when the closure mechanism 20 is deactivated. The press plate 16 is vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16. The press plate 16 is adapted to be driven towards the lid 14 in order to compress the food between the press plate 16 and the lid 14 within the hopper 12. The closure mechanism 20 automatically activates to maintain the lid 14 in the closed position while the press plate 16 is being driven towards the lid 14.

Yet another aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, a closure mechanism 20, a press plate 16 and a delay device 250. The lid 14 has an open position and a closed position. The closure mechanism 20 comprises a first member on the lid 14 and a second member on the hopper 12 configured to interact to maintain the lid 14 in the closed position when the closure mechanism 20 is activated and to discontinue maintaining the lid 14 in the closed position when the closure mechanism 20 is deactivated. The press plate 16 is vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16. The press plate 16 is adapted to be driven towards the lid 14 in order to compress the food between the press plate 16 and the lid 14 within the hopper 12. The closure mechanism 20 automatically activates to maintain the lid 14 in the closed position while the press plate 16 is being driven towards the lid 14. The delay device 250 is configured to delay the driving of the press plate 16 towards the lid 14 such that the closure mechanism 20 is activated a predetermined amount of time before the press plate 16 is driven towards the lid 14.

Another aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, a closure mechanism 20 and a press plate 16. The lid 14 has an open position and a closed position. The closure mechanism 20 comprises a first member on the lid 14 and a second member on the hopper 12 configured to interact to maintain the lid 14 in the closed position when the closure mechanism 20 is activated and to discontinue maintaining the lid 14 in the closed position when the closure mechanism 20 is deactivated. The press plate 16 is vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food



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between the lid 14 and the press plate 16. The press plate 16 is adapted to be driven towards the lid 14 in order to compress the food between the press plate 16 and the lid 14 within the hopper 12. The closure mechanism 20 automatically deactivates to discontinue maintaining the lid 14 in the closed position after the food has been compressed within the hopper 12.

A further aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, with the lid 14 having an open position and a closed position. The food press 10 also includes means for maintaining the lid 14 in the closed position when the means for maintaining is activated and to discontinue maintaining the lid 14 in the closed position when the means for maintaining is deactivated. The food press 10 further includes a press plate 16 vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16. The press plate 16 is adapted to be driven towards the lid 14 in order to compress the food between the press plate 16 and the lid 14 within the hopper 12. The means for maintaining automatically activates to maintain the lid 14 in the closed position while the press plate 16 is being driven towards the lid 14.

Another aspect of the present invention is to provide a food press 10 comprising a hopper 12 with a lid 14, with the lid 14 having an open position and a closed position. The food press 10 also includes means for maintaining the lid 14 in the closed position when the means for maintaining is activated and to discontinue maintaining the lid 14 in the closed position when the means for maintaining is deactivated. The food press 10 further includes a press plate 16 vertically slidable within the hopper 12, with the hopper 12 being adapted to accept food between the lid 14 and the press plate 16. The means for maintaining automatically deactivates to discontinue maintaining the lid 14 in the closed position after the food has been compressed within the hopper 12.

## **VI. Grounds of Rejection to Be Reviewed on Appeal**

Claims 1-6, 9, 14-22, 25, 26 and 31-62 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

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Claims 1, 3-6, 14-22, 25, 26, 31-34, 36-39 and 41-62 have been rejected as being unpatentable over U.S. Patent No. 889,122 to Hallahan.

## **VII. Argument**

### **A. Rejection of Claims 1-6, 9, 14-22, 25, 26 and 31-62 under 35 U.S.C. §112, Second Paragraph**

Claims 1-6, 9, 14-22, 25, 26 and 31-62 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The second paragraph of 35 U.S.C. §112 states that claims must particularly point out and distinctly claim the invention. According to §2173 of the M.P.E.P., "[t]he primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent." M.P.E.P. §2173.01 provides further guidance as to what is required under 35 U.S.C. §112, second paragraph. Specifically, M.P.E.P. §2173.01 states:

[Applicants] can define in the claims what they regard as their invention essentially in whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art. Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. As noted by the court in *In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971), a claim may not be rejected solely because of the type of language used to define the subject matter for which patent protection is sought.

Furthermore, M.P.E.P. §2173.02 provides guidance for the Examiner for reviewing a claim for definiteness. Specifically, M.P.E.P. §2173.02 states:

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject

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matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. . . . In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph by providing clear warning to others as to what constitutes infringement of the patent. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000). See also *In re Larsen*, No. 01-1092 (Fed. Cir. May 9, 2001) (unpublished) . . . If the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph would be appropriate. See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993). However, if the language used by applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the applicant to improve the clarity or precision of the language used, the claim must not be rejected under 35 U.S.C. 112.

In view of the requirements for definiteness stated above, Applicant submits that all pending claims are clearly definite.

Claims 1-6, 9, 14, 15, 17, 35 and 36

According to the last Office Action, claim 1 is rejected because “the recitation ‘automatically activates’ is vague and indefinite since sufficient structure has not been set forth to perform the recited function (i.e., there is no structure set forth to enable the automatic activation.)” Paragraph 6, page 6 of the Office Action mailed May 5, 2004. Applicant submits that all of the claim language referenced in the Office Action in claim 1 is definite. Claim 1 defines a food press including a hopper with a lid having a closed position, a latch assembly adapted to maintain the lid in the closed position when activated and a press plate being adapted to be driven towards the lid, wherein the “latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.” Accordingly, the latch assembly cooperates with the lid to maintain the lid in the closed

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position. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and thus this phrase is definite. The structure that "automatically activates" is the latch assembly. Therefore, this claim language in claim 1 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim, and this phrase is definite.

Accordingly, claim 1 is definite. Furthermore, claims 2-6, 9, 14, 15, 17, 35 and 36 depend from claim 1 and have not been individually rejected as being indefinite. Therefore, since claim 1 is definite, claims 2-6, 9, 14, 15, 17, 35 and 36 are definite.

#### Claim 16

According to the Office Action, claim 16 is rejected because "the recitation 'automatically activates' is vague and indefinite since sufficient structure has not been set forth to perform the recited function (i.e., there is no structure set forth to enable the automatic activation.)" Paragraph 6, page 6 of the Office Action mailed May 5, 2004.

Applicant assumes that the Office Action had a typo in this paragraph and that the Office Action meant to state that the phrase "automatically deactivates" is vague and indefinite. Claim 16 states "the latch assembly automatically deactivates when the latch assembly is not activated by the hydraulic assembly." The structure that "automatically deactivates" is the latch assembly. Once again, this claim language in claim 16 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, since claim 16 depends from claim 1, and claims 1 and 16 are definite, claim 16 is definite.

#### Claims 18-22, 25, 26, 31-33, 37 and 38

According to the Office Action, claim 18 is rejected because "the recitation 'automatically activates' is vague and indefinite since sufficient structure has not been set forth to perform the recited function (i.e., there is no structure set forth to enable the automatic activation.)" Paragraph 6, page 6 of the Office Action mailed May 5, 2004. Once again,

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Applicant assumes that the Office Action had a typo in this paragraph and that the Office Action meant to state that the phrase "automatically deactivates" is vague and indefinite. Applicant submits that all of the claim language referenced in the Office Action in claim 18 is definite. Claim 18 defines a food press including a hopper with a lid having an open position and a closed position, a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated, and a press plate being adapted to be driven towards the lid to compress food between the press plate and the lid within a hopper, wherein the "latch assembly automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper." Accordingly, the latch assembly cooperates with the lid to maintain the lid in the closed position and discontinues cooperating with the lid to discontinue maintaining the lid in the closed position after the food has been compressed. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement, and thus this phrase is definite. The structure that "automatically deactivates" is the latch assembly. Therefore, this claim language in claim 18 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim, and this phrase is definite. Accordingly, claim 18 is definite. Furthermore, claims 19-22, 25, 26, 31-34, 37 and 38 depend from claim 18 and have not been individually rejected as being indefinite. Therefore, since claim 18 is definite, claims 19-22, 25, 26, 31-33, 37 and 38 are definite.

#### Claim 34

According to the Office Action, claim 34 is rejected because "the recitation 'automatically deactivated' is vague and indefinite since sufficient structure has not been set forth to perform the recited function." Paragraph 6, page 6 of the Office Action mailed May 5, 2004. Claim 34 states "the latch assembly is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not activated." The structure that "is automatically deactivated" is the latch assembly. Once again, this claim

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language in claim 34 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, since claim 34 depends from claim 18, and claims 18 and 34 are definite, claim 34 is definite.

#### Claims 39-47 and 49

According to the Office Action, claim 39 is rejected because “the recitation ‘automatically activates’ is vague and indefinite since sufficient structure has not been set forth to perform the recited function.” Paragraph 6, page 6 of the Office Action mailed May 5, 2004. Applicant submits that all of the claim language referenced in the Office Action in claim 39 is definite. Claim 39 defines a food press including a hopper with a lid having a closed position, a closure mechanism adapted to maintain the lid in the closed position when activated and a press plate being adapted to be driven towards the lid, wherein the “closure mechanism automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.” Accordingly, the closure mechanism cooperates with the lid to maintain the lid in the closed position. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and thus this phrase is definite. The structure that “automatically activates” is the closure mechanism. Therefore, this claim language in claim 39 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim, and this phrase is definite. Accordingly, claim 39 is definite. Furthermore, claims 40-47 and 49 depend from claim 39 and have not been individually rejected as being indefinite. Therefore, since claim 39 is definite, claims 40-47 and 49 are definite.

#### Claim 48

According to the Office Action, claim 48 is rejected because “the recitation ‘automatically deactivates’ is vague and indefinite since sufficient structure has not been set forth to perform the recited function.” Paragraph 6, page 6 of the Office Action mailed May 5, 2004. Claim 48 states “the closure mechanism automatically deactivates when the closure

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mechanism is not activated by the hydraulic assembly." The structure that "automatically deactivates" is the closure mechanism. Once again, this claim language in claim 48 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, since claim 48 depends from claim 39, and claims 39 and 48 are definite, claim 48 is definite.

#### Claims 50-59

According to the Office Action, claim 50 is rejected because "the recitation 'automatically deactivates' is vague and indefinite since sufficient structure has not been set forth to perform the recited function." Paragraph 6, page 6 of the Office Action mailed May 5, 2004. Applicant submits that all of the claim language referenced in the Office Action in claim 50 is definite. Claim 50 defines a food press including a hopper with a lid having an open position and a closed position, a closure mechanism adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated, and a press plate being adapted to be driven towards the lid to compress food between the press plate and the lid within a hopper, wherein the "closure mechanism automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper." Accordingly, the closure mechanism cooperates with the lid to maintain the lid in the closed position and discontinues cooperating with the lid to discontinue maintaining the lid in the closed position after the food has been compressed. Clearly, a person of ordinary skill in the art could interpret the metes and bounds of the claims so as to understand how to avoid infringement and thus this phrase is definite. The structure that "automatically deactivates" is the closure mechanism. Therefore, this claim language in claim 50 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim and this phrase is definite. Accordingly, claim 50 is definite. Furthermore, claims 51-59 depend from claim 50 and have not been individually rejected as being indefinite. Therefore, since claim 50 is definite, claims 51-59 are definite.

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#### Claim 60

According to the Office Action, claim 60 is rejected because "the recitation 'automatically deactivated' is vague and indefinite since sufficient structure has not been set forth to perform the recited function." Paragraph 6, page 7 of the Office Action mailed May 5, 2004. Claim 60 states "the closure mechanism is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not activated." The structure that "is automatically deactivated" is the closure mechanism. Once again, this claim language in claim 60 apprises one of ordinary skill in the art of its scope and provides clear warning to others as to what constitutes infringement of the claim. Accordingly, since claim 60 depends from claim 50, and claims 50 and 60 are definite, claim 60 is definite.

#### Claim 61

Claim 61 has been rejected as being vague and indefinite because "the recitation 'automatically deactivates' is vague and indefinite since sufficient structure has not been set forth to perform the recited function." Paragraph 6, page 7 of the Office Action mailed May 5, 2004. Applicant assumes that the Office Action had a typo in this paragraph and that the Office Action meant to state that the phrase "automatically activates" is vague and indefinite. Claim 61 defines a food press including a hopper with a lid having a closed position, means for maintaining the lid in the closed position when the means for maintaining is activated and a press plate being adapted to be driven towards the lid, wherein the "means for maintaining automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid." According to 35 U.S.C. §112, sixth paragraph:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claims shall be construed to cover the corresponding structure, material, or acts described in the specification or equivalents thereof.

Therefore, the language used in claim 61, by definition, includes the structure disclosed in the specification that performs the recited function or equivalents thereof. In other words, by



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definition, claim 61, according to 35 U.S.C. §112, sixth paragraph, defines a sufficient structure for automatically activating. Accordingly, claim 61 is definite.

#### Claim 62

Claim 62 has been rejected as being vague and indefinite because "the recitation 'automatically deactivates' is vague and indefinite since sufficient structure has not been set forth to perform the recited function." Claim 62 defines a food press including a hopper with a lid having a closed position, means for maintaining the lid in the closed position when the means for maintaining is activated and a press plate being adapted to be driven towards the lid, wherein the "means for maintaining automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed and divided within the hopper." As stated above in regard to claim 61, the language used in claim 62, by definition under the law, includes the structure disclosed in the specification that performs the recited function or equivalents thereof. In other words, by definition, claim 62, according to 35 U.S.C. §112, sixth paragraph, defines a sufficient structure for automatically activating. Accordingly, claim 62 is definite.

#### **B. Rejection of Claims 1, 3-6, 14-22, 25, 26, 31-34, 36-39 and 41-62 as Being Unpatentable Over U.S. Patent No. 889,122 to Hallahan**

According to the Office Action, claims 1, 3-6, 14-22, 25, 31-34, 36, 37, 39 and 41-55 and 55-62 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 889,122 to Hallahan. However, the Examiner has apparently admitted that the Hallahan '122 patent does not include all of the features in the claims. Specifically, the final Office Action states

In the alternative, if it is argued that the latch assembly of Hallahan is not automatically actuatable, the Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically

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actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Paragraph 9, page 8 of the Office Action mailed May 5, 2004. While not all claims include a latch assembly or a latch assembly that automatically activates, Applicant assumes that the Examiner admits that the Hallahan '122 patent does not include a latch assembly that automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid, a latch assembly that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper, a closure mechanism that automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid, a closure mechanism that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper, means for maintaining that automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid or means for maintaining that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984) (emphasis added). Applicant respectfully asserts that the Examiner has not yet met his burden of establishing a *prima facie* case of anticipation with respect to the rejected claims. Applicant submits that the Examiner has already admitted that the Hallahan '122 patent does not have all of the features of the claims. Nevertheless, Applicant will address the absence of all of the claimed features below. Furthermore, Applicant submits that the Examiner has not made a *prima facie* case of obviousness for rejecting the claims. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references

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themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP §2143.01 provides further guidance as to what is necessary in showing that there was motivation known in the prior art to modify a reference teaching. Specifically, MPEP §2143.01 states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

Claims 1, 3-6, 14-22, 25, 26, 31-34, 36-39 and 41-62 have been rejected over a modification of the Hallahan '122 patent. The Hallahan '122 patent discloses a sausage stuffing machine having a material containing cylinder 1 which is opened at its bottom. A piston head 6 is located in a bottom of the cylinder 1. The piston head 6 is connected to a piston 11 located within a hollow cylinder 12. Water from a water reservoir 17 is selectively input into a bottom of the hollow cylinder 12 to drive the piston 11 and the piston head 6 upward within the cylinder 1. The sausage stuffing machine also includes a cover 2 detachably secured in position by a hold fast device 3. The sausage stuffing machine works by placing

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sausage within the cylinder 1 between the cover 2 and the piston head 6. As the piston head 6 is lifted, the sausage within the cylinder 1 is discharged out of a discharge spout 4.

Claims 1, 3-6, 9, 14, 17 and 36

Claim 1 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated, and a press plate vertically slidable within the hopper. The hopper is adapted to accept food between the lid and the press plate. The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper, and the latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

The prior art of record does not disclose or suggest the above noted features of claim 1. Specifically, the Hallahan '122 patent does not disclose a latch assembly that automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid. As stated above, the Examiner has acknowledged that the Hallahan '122 patent does not include this feature. However, in order to make up this deficiency, the Examiner has stated that:

[T]he Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Page 8, paragraph 9 of the Office Action mailed May 5, 2004. However, Applicant submits that the Examiner has not made a prima facie case of obviousness.

First, Applicant submits that the Examiner has not provided enough or even any evidence that "such automatically actuatable latches are old and well known in the art" such

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that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that automatically actuatable latches for food presses are not old and well known in the art. Finally, Applicant submits that automatically actuatable latches are not old and well known in the art to provide safety benefits. Second, even if automatically acutatable latches are old and well known in the art, there is no suggestion or motivation for automatically activating a latch assembly to maintain a lid in a closed position while a press plate is being driven towards the lid. Specifically, even if there was a reason to add an automatically actuatable latch assembly to the Hallahan '122 patent, there is no suggestion or motivation for having the latch assembly automatically activate to maintain the cover of the Hallahan '122 patent in a closed position while the piston head 6 is being driven towards the cover 2. Notably, the Office Action has not stated that the modification set forth in the Office Action would result in a latch assembly that automatically activates to maintain a lid in a closed position while a press plate is being driven towards a lid. The final Office Action has only added a latch assembly to the Hallahan '122 patent. Accordingly, claim 1 is in condition for allowance. Furthermore, claims 9, 14 and 36 depend from claim 1, and since claim 1 defines unobvious patentable subject matter, claims 9, 14 and 36 define patentable subject matter.

#### Claim 15

Claim 15 depends from claims 1 and 14 and further defines the food press as including a hydraulic assembly adapted to drive the press plate towards the lid, wherein the hydraulic assembly is further adapted to activate the latch assembly. The prior art of record does not disclose or suggest the above noted features of claim 15.

First, claim 15 depends from claims 1 and 14, and since claims 1 and 14 define unobvious patentable subject matter as discussed above, claim 15 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the Office Action, does not include a hydraulic assembly adapted to activate a latch assembly. Specifically, even if there was a motivation for adding an automatically actuatable latch assembly to the Hallahan

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'122 patent, such a modification would not include a hydraulic assembly that is adapted to drive a press plate towards a lid and adapted to activate the latch assembly. Furthermore, there is no suggestion or motivation for making such a modification of the Hallahan '122 patent. Accordingly, claim 15 is in condition for allowance.

#### Claim 16

Claim 16 depends from claims 1, 14 and 15 and further defines the latch assembly as automatically deactivating when the latch assembly is not being activated by the hydraulic assembly. The prior art of record does not disclose or suggest the above noted features of claim 16.

First, claim 16 depends from claims 1, 14 and 15 and since claims 1, 14 and 15 define unobvious patentable subject matter as discussed above, claim 16 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include a latch assembly that automatically deactivates when the latch assembly is not being activated by the hydraulic assembly. Specifically, even if there was a motivation for adding an automatically actuatable latch assembly to the Hallahan '122 patent, such a modification would not include a latch assembly that automatically deactivates when the latch assembly is not being activated by the hydraulic assembly. Furthermore, there is no suggestion or motivation for making such a modification of the Hallahan '122 patent. Accordingly, claim 16 is in condition for allowance.

#### Claims 18-21, 25, 31, 33 and 37

Claim 18 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated, and a press plate vertically slidable within the hopper. The hopper is adapted to accept food between the lid and the press plate. The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within

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the hopper. The latch assembly automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

The prior art of record does not disclose or suggest the above noted features of claim 1. Specifically, the Hallahan '122 patent does not disclose a latch assembly that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. As stated above, the Examiner has acknowledged that the Hallahan '122 patent does not include this feature. However, in order to make up this deficiency, the Examiner has stated that:

[T]he Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Page 8, paragraph 9 of the Office Action mailed May 5, 2004. However, Applicant submits that the Examiner has not made a prima facie case of obviousness.

First, Applicant submits that the Examiner has not provided enough or even any evidence that "such automatically actuatable latches are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that automatically deactuatable latches for food presses are not old and well known in the art. Finally, Applicant submits that automatically deactuatable latches are not old and well known in the art to provide safety benefits. Second, even if automatically deactuatable latches are old and well known in the art, there is no suggestion or motivation for automatically deactivating a latch assembly to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. Specifically, even if there was a reason to add an automatically deactuatable latch assembly to the Hallahan '122 patent, there is no suggestion or motivation for having the latch assembly automatically deactivate to discontinue maintaining the cover of the Hallahan '122

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patent in a closed position after food has been compressed in the cylinder. Notably, the Office Action has not stated that the modification set forth in the final Office Action would result in a latch assembly that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. The final Office Action has only added a latch assembly to the Hallahan '122 patent. Accordingly, claim 18 is in condition for allowance. Furthermore, claims 19-21, 25, 31, 33 and 37 depend from claim 18, and since claim 18 defines unobvious patentable subject matter, claims 19-21, 25, 31, 33 and 37 define patentable subject matter.

#### Claim 26

Claim 26 depends from claims 18 and 25 and further defines the lid as being rotatably connected to the hopper and defines the food press as including a coil spring connected to the lid that automatically rotates the lid to the open position when the latch assembly is deactivated. The prior art of record does not disclose or suggest the above noted features of claim 26.

First, claim 26 depends from claims 18 and 25, and since claims 18 and 25 define unobvious patentable subject matter as discussed above, claim 26 defines patentable subject matter. Second, Applicant submits that the Examiner has not made a prima facie case of obviousness to reject claim 26. According to the Office Action, the Hallahan '122 patent does not disclose a coil spring connected to a lid, but "the Examiner takes Official notice that coil springs as claimed are old and well known in the art and provide various well known benefits including biasing a lid to an open position so that it does not have to be held open and reduces the possibility of the lid being inadvertently closed." Therefore, according to the Examiner, "it would have been obvious to one having ordinary skill in the art to provide a coiled spring on the apparatus of Hallahan for the well known benefits including that described above."

Applicant submits that the Examiner has not provided enough or even any evidence that "coil springs as claimed are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002).



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Furthermore, Applicant submits that coil springs that automatically rotate a lid to an open position when a latch assembly is deactivated are not old and well known in the art. Finally, even if coil springs as claimed are old and well known in the art, there is no suggestion or motivation for automatically rotating a lid to an open position when a latch assembly is deactivated. Specifically, even if there was a reason to add a coil spring as claimed to the Hallahan '122 patent, there is no suggestion or motivation for having the cover of the Hallahan '122 patent rotate to an open position when a latch assembly is deactivated. Furthermore, there is no suggestion or motivation for providing a coil spring to the Hallahan '122 patent that would automatically rotate the cover 2 to an open position when the piston head 6 has compressed the food within the cylinder 1. Accordingly, claim 26 is in condition for allowance.

#### Claim 32

Claim 32 depends from claims 18 and 31 and further defines the food press as including a hydraulic assembly adapted to drive the press plate towards the lid, wherein the hydraulic assembly is further adapted to activate the latch assembly. The prior art of record does not disclose or suggest the above noted features of claim 32.

First, claim 32 depends from claims 18 and 31, and since claims 18 and 31 define unobvious patentable subject matter as discussed above, claim 32 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include a hydraulic assembly adapted to activate a latch assembly. Specifically, even if there was a motivation for adding an automatically actuatable latch assembly to the Hallahan '122 patent, such a modification would not include a hydraulic assembly that is adapted to drive a press plate towards a lid and adapted to activate the latch assembly. Furthermore, there is no suggestion or motivation for making such a modification of the Hallahan '122 patent. Accordingly, claim 32 is in condition for allowance.

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#### Claim 34

Claim 34 depends from claim 18, and further defines the food press as including an actuating mechanism for driving the press plate towards the lid when activated, wherein the latch assembly is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not activated. The prior art of record does not disclose or suggest the above noted features of claim 34.

First, claim 34 depends from claim 18, and since claim 18 defines patentable subject matter as discussed above, claim 34 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include all of the features of claim 34. Specifically, the Hallahan '122 patent either alone or as modified does not include an actuating mechanism for driving a press plate towards a lid, wherein the latch mechanism is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not actuated. The Hallahan '122 patent, either alone or as modified, does not include any functioning relationship between an actuating mechanism for driving a press plate and for actuating a latch assembly. Accordingly, claim 34 is in condition for allowance.

#### Claim 38

Claim 38 depends from claims 18, 19 and 37 and further defines the lid as being rotatably connected to the hopper and defines the food press as including a coil spring connected to the lid that automatically rotates the lid to the open position when the latch assembly is deactivated. The prior art of record does not disclose or suggest the above noted features of claim 38.

First, claim 38 depends from claims 18, 19 and 37, and since claims 18, 19 and 37 define unobvious patentable subject matter as discussed above, claim 38 defines patentable subject matter. Second, Applicant submits that the Examiner has not made a prima facie case of obviousness to reject claim 38. According to the Office Action, the Hallahan '122 patent does not disclose a coil spring connected to a lid, but "the Examiner takes Official notice that

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coil springs as claimed are old and well known in the art and provide various well known benefits including biasing a lid to an open position so that it does not have to be held open and reduces the possibility of the lid being inadvertently closed.” Therefore, according to the Examiner, “it would have been obvious to one having ordinary skill in the art to provide a coiled spring on the apparatus of Hallahan for the well known benefits including that described above.”

Applicant submits that the Examiner has not provided enough or even any evidence that “coil springs as claimed are old and well known in the art” such that the Examiner’s official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that coil springs that automatically rotate a lid to an open position when a latch assembly is deactivated are not old and well known in the art. Finally, even if coil springs as claimed are old and well known in the art, there is no suggestion or motivation for automatically rotating a lid to an open position when a latch assembly is deactivated. Specifically, even if there was a reason to add a coil spring as claimed to the Hallahan ‘122 patent, there is no suggestion or motivation for having the cover of the Hallahan ‘122 patent rotate to an open position when a latch assembly is deactivated. Furthermore, there is no suggestion or motivation for providing a coil spring to the Hallahan ‘122 patent that would automatically rotate the cover 2 to an open position when the piston head 6 has compressed the food within the cylinder 1. Accordingly, claim 38 is in condition for allowance.

#### Claims 39, 41-46 and 49

Claim 39 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated, and a press plate vertically slidable within the hopper. The hopper is adapted to accept food between the lid and the press plate.

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The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper. The closure mechanism automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

The prior art of record does not disclose or suggest the above noted features of claim 39. Specifically, the Hallahan '122 patent does not disclose a closure mechanism that automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid. As stated above, the Examiner has acknowledged that the Hallahan '122 patent does not include this feature. However, in order to make up this deficiency, the Examiner has stated that:

[T]he Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Page 8, paragraph 9 of Office Action mailed May 5, 2004. However, Applicant submits that the Examiner has not made a prima facie case of obviousness. For the sake of claim 39, Applicant has substituted "closure mechanism" for "latch" or "latch assembly" in the Examiner's arguments.

First, Applicant submits that the Examiner has not provided enough or even any evidence that "such automatically actuatable [closure mechanisms] are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that automatically actuatable closure mechanisms for food presses are not old and well known in the art. Finally, Applicant submits that automatically actuatable closure mechanisms are not old and well known in the art to provide safety benefits. Second, even if automatically acutatable closure mechanisms are old and well known in the art, there is no suggestion or motivation for automatically activating a closure mechanism to maintain a lid in a closed position while a

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press plate is being driven towards the lid. Specifically, even if there was a reason to add an automatically actuatable closure mechanism to the Hallahan '122 patent, there is no suggestion or motivation for having the closure mechanism automatically activate to maintain the cover of the Hallahan '122 patent in a closed position while the piston head 6 is being driven towards the cover 2. Notably, the Office Action has not stated that the modification set forth in the Office Action would result in a closure mechanism that automatically activates to maintain a lid in a closed position while a press plate is being driven towards a lid. The Office Action has only added a closure mechanism to the Hallahan '122 patent. Accordingly, claim 39 is in condition for allowance. Furthermore, claims 41-46 and 49 depend from claim 39, and since claim 39 defines unobvious patentable subject matter, claims 41-46 and 49 define patentable subject matter.

#### Claim 47

Claim 47 depends from claims 39 and 46 and further defines the food press as including a hydraulic assembly adapted to drive the press plate towards the lid, wherein the hydraulic assembly is further adapted to activate the closure mechanism. The prior art of record does not disclose or suggest the above noted features of claim 47.

First, claim 47 depends from claims 39 and 46, and since claims 39 and 46 define unobvious patentable subject matter as discussed above, claim 47 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include a hydraulic assembly adapted to activate a closure mechanism. Specifically, even if there was a motivation for adding an automatically actuatable closure mechanism to the Hallahan '122 patent, such a modification would not include a hydraulic assembly that is adapted to drive a press plate towards a lid and adapted to activate the closure mechanism. Furthermore, there is no suggestion or motivation for making such a modification of the Hallahan '122 patent. Accordingly, claim 47 is in condition for allowance.

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#### Claim 48

Claim 48 depends from claim 39, 46 and 47 and further defines the closure mechanism as automatically deactivating when the closure mechanism is not activated by the hydraulic assembly. The prior art of record does not disclose or suggest the above noted features of claim 48.

First, claim 48 depends from claims 39, 46 and 47, and since claims 39, 46 and 47 define patentable subject matter as discussed above, claim 48 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include all of the features of claim 48. Specifically, the Hallahan '122 patent either alone or as modified does not include a closure mechanism that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. The Hallahan '122 patent, either alone or as modified, does not include any functioning relationship between an actuating mechanism for driving a press plate and a closure mechanism. Accordingly, claim 48 is in condition for allowance.

#### Claims 50-55, 57 and 59

Claim 59 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated, and a press plate vertically slidable within the hopper. The hopper is adapted to accept food between the lid and the press plate. The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper. The closure mechanism automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

The prior art of record does not disclose or suggest the above noted features of claim 50. Specifically, the Hallahan '122 patent does not disclose a closure mechanism that

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automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. As stated above, the Examiner has acknowledged that the Hallahan '122 patent does not include this feature. However, in order to make up this deficiency, the Examiner has stated that:

[T]he Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Page 8, paragraph 9 of the Office Action mailed May 5, 2004. However, Applicant submits that the Examiner has not made a prima facie case of obviousness.

First, Applicant submits that the Examiner has not provided enough or even any evidence that "such automatically actuatable latches are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that automatically deactuatable closure mechanism for food presses are not old and well known in the art. Finally, Applicant submits that automatically deactuatable closure mechanisms are not old and well known in the art to provide safety benefits. Second, even if automatically deactuatable closure mechanisms are old and well known in the art, there is no suggestion or motivation for automatically deactivating a closure mechanism to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. Specifically, even if there was a reason to add an automatically deactuatable closure mechanism to the Hallahan '122 patent, there is no suggestion or motivation for having the closure mechanism automatically deactivate to discontinue maintaining the cover of the Hallahan '122 patent in a closed position after the food has been compressed in the cylinder. Notably, the Office Action has not stated that the modification set forth in the final Office Action would result in a closure mechanism that automatically deactivates to discontinue maintaining the lid in the closed position after the food

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has been compressed within the hopper. The Office Action has only added a closure mechanism to the Hallahan '122 patent. Accordingly, claim 50 is in condition for allowance. Furthermore, claims 51-55, 57 and 59 depend from claim 50, and since claim 50 defines unobvious patentable subject matter, claims 51-55, 57 and 59 define patentable subject matter.

#### Claim 56

Claim 56 depends from claims 50 and 55 and further defines the lid as being rotatably connected to the hopper and defines the food press as including a coil spring connected to the lid that automatically rotates the lid to the open position when the closure mechanism is deactivated. The prior art of record does not disclose or suggest the above noted features of claim 56.

First, claim 56 depends from claims 50 and 55, and since claims 50 and 55 define unobvious patentable subject matter as discussed above, claim 56 defines patentable subject matter. Second, Applicant submits that the Examiner has not made a prima facie case of obviousness to reject claim 56. According to the Office Action, the Hallahan '122 patent does not disclose a coil spring connected to a lid, but "the Examiner takes Official notice that coil springs as claimed are old and well known in the art and provide various well known benefits including biasing a lid to an open position so that it does not have to be held open and reduces the possibility of the lid being inadvertently closed." Therefore, according to the Examiner, "it would have been obvious to one having ordinary skill in the art to provide a coiled spring on the apparatus of Hallahan for the well known benefits including that described above."

Applicant submits that the Examiner has not provided enough or even any evidence that "coil springs as claimed are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that coil springs that automatically rotate a lid to an open position when a closure mechanism is deactivated are not old and well known in the art. Finally, even if coil springs as claimed are old and well known in the art, there is no suggestion or motivation for automatically rotating a lid to an open position when a closure



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mechanism is deactivated. Specifically, even if there was a reason to add a coil spring as claimed to the Hallahan '122 patent, there is no suggestion or motivation for having the cover of the Hallahan '122 patent rotate to an open position when a closure mechanism is deactivated.

Furthermore, there is no suggestion or motivation for providing a coil spring to the Hallahan '122 patent that would automatically rotate the cover 2 to an open position when the piston head 6 has compressed the food within the cylinder 1. Accordingly, claim 56 is in condition for allowance.

#### Claim 58

Claim 58 depends from claims 50 and 57 and further defines the food press as including a hydraulic assembly adapted to drive the press plate towards the lid, wherein the hydraulic assembly is further adapted to activate the closure mechanism. The prior art of record does not disclose or suggest the above noted features of claim 58.

First, claim 58 depends from claims 50 and 57, and since claims 50 and 57 define unobvious patentable subject matter as discussed above, claim 58 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include a hydraulic assembly adapted to activate a closure mechanism. Specifically, even if there was a motivation for adding an automatically actuatable closure mechanism to the Hallahan '122 patent, such a modification would not include a hydraulic assembly that is adapted to drive a press plate towards a lid and adapted to activate the closure mechanism. Furthermore, there is no suggestion or motivation for making such a modification of the Hallahan '122 patent. Accordingly, claim 58 is in condition for allowance.

#### Claim 60

Claim 60 depends from claim 50, and further defines the food press as including an actuating mechanism for driving the press plate towards the lid when activated, wherein the closure mechanism is automatically deactivated to discontinue maintaining the lid in the closed

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position when the actuating mechanism is not activated. The prior art of record does not disclose or suggest the above noted features of claim 60.

First, claim 60 depends from claim 50, and since claim 50 defines patentable subject matter as discussed above, claim 60 defines patentable subject matter. Second, the Hallahan '122 patent, either alone or as modified in the final Office Action, does not include all of the features of claim 60. Specifically, the Hallahan '122 patent either alone or as modified does not include an actuating mechanism for driving a press plate towards a lid, wherein the closure mechanism is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not actuated. The Hallahan '122 patent, either alone or as modified, does not include any functioning relationship between an actuating mechanism for driving a press plate and a closure mechanism. Accordingly, claim 60 is in condition for allowance.

#### Claim 61

Claim 61 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, means for maintaining the lid in the closed position when the means for maintaining is activated and to discontinue maintaining the lid in the closed position when the means for maintaining is deactivated, and a press plate vertically slidable within the hopper. The hopper is adapted to accept food between the lid and the press plate. The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper. The means for maintaining automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

The prior art of record does not disclose or suggest the above noted features of claim 61. Specifically, the Hallahan '122 patent does not disclose means for maintaining that automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid. As stated above, the Examiner has acknowledged that the Hallahan '122 patent does not include this feature. However, in order to make up this deficiency, the

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Examiner has stated that:

[T]he Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Page 8, paragraph 9 of the Office Action mailed May 5, 2004. However, Applicant submits that the Examiner has not made a prima facie case of obviousness.

First, Applicant submits that the Examiner has not provided enough or even any evidence that "such automatically actuatable latches are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that automatically actuatable means for maintaining for food presses are not old and well known in the art. Finally, Applicant submits that automatically actuatable means for maintaining are not old and well known in the art to provide safety benefits. Second, even if automatically acutatable means for maintaining are old and well known in the art, there is no suggestion or motivation for automatically activating a means for maintaining to maintain a lid in a closed position while a press plate is being driven towards the lid. Specifically, even if there was a reason to add an automatically actuatable means for maintaining to the Hallahan '122 patent, there is no suggestion or motivation for having the means for maintaining automatically activate to maintain the cover of the Hallahan '122 patent in a closed position while the piston head 6 is being driven towards the cover 2. Notably, the Office Action has not stated that the modification set forth in the Office Action would result in a means for maintaining that automatically activates to maintain a lid in a closed position while a press plate is being driven towards a lid. The Office Action has only added a latch assembly to the Hallahan '122 patent. Accordingly, claim 61 is in condition for allowance.

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#### Claim 62

Claim 62 defines a food press including, among other things, a hopper with a lid having an open position and a closed position, a means for maintaining the lid in the closed position when the means for maintaining is activated and to discontinue maintaining the lid in the closed position when the means for maintaining is deactivated, and a press plate vertically slidable within the hopper. The hopper is adapted to accept food between the lid and the press plate. The press plate is adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper. The means for maintaining automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

The prior art of record does not disclose or suggest the above noted features of claim 62. Specifically, the Hallahan '122 patent does not disclose a means for maintaining that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. As stated above, the Examiner has acknowledged that the Hallahan '122 patent does not include this feature. However, in order to make up this deficiency, the Examiner has stated that:

[T]he Examiner takes Official notice that such automatically actuatable latches are old and well known in the art and provide various known benefits including providing for automatic operation of the latch assembly for various reasons including safety reasons. Therefore, it would have been obvious to one having ordinary skill in the art to provide an automatically actuatable latch assembly on the apparatus of Hallahan for the well known benefits including those described above.

Page 8, paragraph 9 of the Office Action mailed May 5, 2004. However, Applicant submits that the Examiner has not made a prima facie case of obviousness.

First, Applicant submits that the Examiner has not provided enough or even any evidence that "such automatically actuatable latches are old and well known in the art" such that the Examiner's official notice is improper. See *In re Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Furthermore, Applicant submits that automatically deactuatable means

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for maintaining for food presses are not old and well known in the art. Finally, Applicant submits that automatically deactuatable means for maintaining are not old and well known in the art to provide safety benefits. Second, even if automatically deactivating means for maintaining are old and well known in the art, there is no suggestion or motivation for automatically deactivating a means for maintaining to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. Specifically, even if there was a reason to add an automatically deactivating means for maintaining to the Hallahan '122 patent, there is no suggestion or motivation for having the means for maintaining automatically deactivate to discontinue maintaining the cover of the Hallahan '122 patent in a closed position. Notably, the Office Action has not stated that the modification set forth in the Office Action would result in a means for maintaining that automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper. The Office Action has only added a means for maintaining to the Hallahan '122 patent. Accordingly, claim 62 is in condition for allowance.

### Conclusion

Each appealed claim recites features that are not disclosed in any of the cited references and it would not have been obvious to modify the cited references to include the recited features of the appealed claims. The references upon which the Examiner relies in the Examiner's rejection of the twice rejected claims does not disclose or suggest a food press having either a latch assembly that automatically activates to maintain a lid in a closed position while a press plate is being driven towards a lid, a latch assembly that automatically deactivates to discontinue maintaining a lid in a closed position after food has been compressed within a hopper, a closure mechanism that automatically activates to maintain a lid in a closed position while a press plate is being driven towards a lid, a closure mechanism that automatically deactivates to discontinue maintaining a lid in a closed position after food has been compressed within a hopper, means for maintaining that automatically activates to maintain a lid in a closed position while a press plate is being driven towards a lid or means for maintaining that automatically deactivates to discontinue

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maintaining a lid in closed position after food has been compressed within a hopper. Applicant's invention resolves problems and inconveniences experienced in the prior art, and therefore represents a significant advancement in the art. Applicant earnestly requests that the Examiner's rejection of claims 1-6, 9, 14-22, 25, 26 and 31-62, inclusive, be reversed, and that the application be passed to issuance forthwith.

Respectfully submitted,

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### **Appendix of Claims (37 CFR §1.192(c)(9))**

1. A food press comprising:
  - a hopper with a lid, the lid having an open position and a closed position;
  - a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated;
  - a press plate vertically slidable within the hopper;
  - the hopper being adapted to accept food between the lid and the press plate;
  - the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper; and
  - wherein the latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.
  
2. A food press comprising:
  - a hopper with a lid, the lid having an open position and a closed position;
  - a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated;
  - a press plate vertically slidable within the hopper;
  - the hopper being adapted to accept food between the lid and the press plate;
  - the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper;
  - wherein the latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid; and
  - further including a delay device configured to delay the driving of the press plate towards the lid such that the latch assembly is activated a predetermined amount of time before the press plate is driven towards the lid.

3. The food press of claim 1, wherein:  
the press plate has a vertical stroke between a top of the hopper and a bottom of the hopper; and  
the press plate is configured to move towards the bottom of the hopper when pressure applied to a top of the press plate from the food within the hopper reaches a predetermined level.
4. The food press of claim 3, wherein:  
the predetermined level is an amount of force greater than an amount of friction between the hopper and the press plate.
5. The food press of claim 3, further including:  
a reversible cylinder assembly configured to move the press plate between the top of the hopper and the bottom of the hopper.
6. The food press of claim 5, wherein:  
the reversible cylinder assembly is adapted to move downward in order to allow the press plate to move towards the bottom of the hopper when the pressure applied to the top of the press plate from the food when the hopper reaches the predetermined level.
7. The food press of claim 6, further comprising:  
a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.
8. The food press of claim 7, wherein:  
the cylinder assembly includes a first rod telescoping with a second rod;  
the first rod being connected to the press plate and the second rod being connected to the knife assembly.



9. The food press of claim 1, wherein:  
the lid is rotatably connected to the hopper and adapted to compress the food within the hopper.
10. The food press of claim 1, further comprising:  
a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.
11. The food press of claim 10, wherein:  
the knife assembly is configured to divide the food into 16 pieces.
12. The food press of claim 10, wherein:  
the knife assembly is configured to divide the food into 20 pieces.
13. The food press of claim 10, wherein:  
the knife assembly is configured to divide the food into 24 pieces.
14. The food press of claim 1, further comprising:  
a hydraulic assembly adapted to drive the press plate towards the lid.
15. The food press of claim 14, wherein:  
the hydraulic assembly is further adapted to activate the latch assembly.
16. The food press of claim 15, wherein:  
the latch assembly automatically deactivates when the latch assembly is not activated by the hydraulic assembly.

17. The food press of claim 1, further comprising:

a reversible cylinder assembly being connected to the press plate and adapted to move downward in order to allow the press plate to move towards a bottom of the hopper when pressure applied to a top of the press plate from rising food when the hopper reaches a predetermined level.

18. A food press comprising:

a hopper with a lid, the lid having an open position and a closed position;

a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated;

a press plate vertically slidable within the hopper;

the hopper being adapted to accept food between the lid and the press plate;

the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper;

wherein the latch assembly automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

19. The food press of claim 18, wherein:

the press plate has a vertical stroke between a top of the hopper and a bottom of the hopper; and

the press plate is configured to move towards the bottom of the hopper when pressure applied to a top of the press plate from the food when the hopper reaches a predetermined level.

20. The food press of claim 19, wherein:

the predetermined level is an amount of force greater than an amount of friction between the hopper and the press plate.

21. The food press of claim 19, further including:  
a reversible cylinder assembly configured to move the press plate between the top of the hopper and the bottom of the hopper.
22. The food press of claim 21, wherein:  
the cylinder assembly is adapted to move downward in order to allow the press plate to move towards the bottom of the hopper when the pressure applied to the top of the press plate from the food within the hopper reaches the predetermined level.
23. The food press of claim 22, further comprising:  
a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.
24. The food press of claim 23, wherein:  
the cylinder assembly includes a first rod telescoping with a second rod; the first rod being connected to the press plate and the second rod being connected to the knife assembly.
25. The food press of claim 18, wherein:  
the lid is rotatably connected to the hopper and adapted to compress the food within the hopper in the closed position.
26. The food press of claim 25, wherein:  
a coil spring connected to the lid automatically rotates the lid to the open position when the latch assembly is deactivated.
27. The food press of claim 18, further comprising:  
a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.

28. The food press of claim 27, wherein:  
the knife assembly is configured to divide the food into 16 pieces.
29. The food press of claim 27, wherein:  
the knife assembly is configured to divide the food into 20 pieces.
30. The food press of claim 27, wherein:  
the knife assembly is configured to divide the food into 24 pieces.
31. The food press of claim 18, further comprising:  
a hydraulic assembly adapted to drive the press plate towards the lid.
32. The food press of claim 31, wherein:  
the hydraulic assembly is further adapted to activate the latch assembly.
33. The food press of claim 18, further comprising:  
a reversible cylinder assembly being connected to the press plate and adapted to move downward in order to allow the press plate to move towards a bottom of the hopper when pressure applied to a top of the press plate from rising food within the hopper reaches a predetermined level.
34. The food press of claim 18, further comprising:  
an actuating mechanism for driving the press plate towards the lid when activated;  
wherein the latch assembly is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not activated.

35. A food press comprising:
- a hopper with a lid, the lid having an open position and a closed position;
  - a latch assembly adapted to maintain the lid in the closed position when activated and to discontinue maintaining the lid in the closed position when deactivated;
  - a press plate vertically slidable within the hopper;
  - the hopper being adapted to accept food between the lid and the press plate;
  - the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper;
  - wherein the latch assembly automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid; and
  - wherein the press plate has a vertical stroke between a top of the hopper and a bottom of the hopper and the press plate is configured to move towards the bottom of the hopper when pressure applied to a top of the press plate from the food within the hopper reaches a predetermined level; and
  - further including a delay device configured to delay the driving of the press plate towards the lid such that the latch assembly is activated a predetermined amount of time before the press plate is driven towards the lid.
36. The food press of claim 3, wherein:
- the lid is rotatably connected to the hopper and adapted to compress the food within the hopper.
37. The food press of claim 19, wherein:
- the lid is rotatably connected to the hopper and adapted to compress the food within the hopper in the closed position.

38. The food press of claim 37, wherein:

a coil spring connected to the lid automatically rotates the lid to the open position when the latch assembly is deactivated.

39. A food press comprising:

a hopper with a lid, the lid having an open position and a closed position;

a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated;

a press plate vertically slidable within the hopper;

the hopper being adapted to accept food between the lid and the press plate;

the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper; and

wherein the closure mechanism automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

40. A food press comprising:

a hopper with a lid, the lid having an open position and a closed position;

a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated; and

a press plate vertically slidable within the hopper;

the hopper being adapted to accept food between the lid and the press plate; and

the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper;

wherein the closure mechanism automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid; and

further including a delay device configured to delay the driving of the press plate towards the lid such that the closure mechanism is activated a predetermined amount of time before the press plate is driven towards the lid.

41. The food press of claim 39, wherein:

the press plate has a vertical stroke between a top of the hopper and a bottom of the hopper; and

the press plate is configured to move towards the bottom of the hopper when pressure applied to a top of the press plate from the food within the hopper reaches a predetermined level.

42. The food press of claim 41, wherein:

the predetermined level is an amount of force greater than an amount of friction between the hopper and the press plate.

43. The food press of claim 41, further including:

a reversible cylinder assembly configured to move the press plate between the top of the hopper and the bottom of the hopper.

44. The food press of claim 43, wherein:

the reversible cylinder assembly is adapted to move downward in order to allow the press plate to move towards the bottom of the hopper when the pressure applied to the top of the press plate from the food when the hopper reaches the predetermined level.

45. The food press of claim 39, wherein:  
the lid is rotatably connected to the hopper and adapted to compress the food within the hopper.
46. The food press of claim 39, further comprising:  
a hydraulic assembly adapted to drive the press plate towards the lid.
47. The food press of claim 46, wherein:  
the hydraulic assembly is further adapted to activate the closure mechanism.
48. The food press of claim 47, wherein:  
the closure mechanism automatically deactivates when the closure mechanism is not activated by the hydraulic assembly.
49. The food press of claim 39, further comprising:  
a reversible cylinder assembly being connected to the press plate and adapted to move downward in order to allow the press plate to move towards a bottom of the hopper when pressure applied to a top of the press plate from rising food when the hopper reaches a predetermined level.
50. A food press comprising:  
a hopper with a lid, the lid having an open position and a closed position;  
a closure mechanism comprising a first member on the lid and a second member on the hopper configured to interact to maintain the lid in the closed position when the closure mechanism is activated and to discontinue maintaining the lid in the closed position when the closure mechanism is deactivated;  
a press plate vertically slidable within the hopper;  
the hopper being adapted to accept food between the lid and the press plate;



the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper;

wherein the closure mechanism automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

51. The food press of claim 50, wherein:

the press plate has a vertical stroke between a top of the hopper and a bottom of the hopper; and

the press plate is configured to move towards the bottom of the hopper when pressure applied to a top of the press plate from the dough when the hopper reaches a predetermined level.

52. The food press of claim 51, wherein:

the predetermined level is an amount of force greater than an amount of friction between the hopper and the press plate.

53. The food press of claim 51, further including:

a reversible cylinder assembly configured to move the press plate between the top of the hopper and the bottom of the hopper.

54. The food press of claim 53, wherein:

the cylinder assembly is adapted to move downward in order to allow the press plate to move towards the bottom of the hopper when the pressure applied to the top of the press plate from the food within the hopper reaches the predetermined level.

55. The food press of claim 50, wherein:

the lid is rotatably connected to the hopper and adapted to compress the food within the hopper in the closed position.

56. The food press of claim 55, wherein:  
a coil spring connected to the lid automatically rotates the lid to the open position when the closure mechanism is deactivated.
57. The food press of claim 50, further comprising:  
a hydraulic assembly adapted to drive the press plate towards the lid.
58. The food press of claim 57, wherein:  
the hydraulic assembly is further adapted to activate the closure mechanism.
59. The food press of claim 50, further comprising:  
a reversible cylinder assembly being connected to the press plate and adapted to move downward in order to allow the press plate to move towards a bottom of the hopper when pressure applied to a top of the press plate from rising food within the hopper reaches a predetermined level.
60. The food press of claim 50, further comprising:  
an actuating mechanism for driving the press plate towards the lid when activated;  
wherein the closure mechanism is automatically deactivated to discontinue maintaining the lid in the closed position when the actuating mechanism is not activated.
61. A food press comprising:  
a hopper with a lid, the lid having an open position and a closed position;  
means for maintaining the lid in the closed position when the means for maintaining is activated and to discontinue maintaining the lid in the closed position when the means for maintaining is deactivated;  
a press plate vertically slidable within the hopper;  
the hopper being adapted to accept food between the lid and the press plate;

the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper; and

wherein the means for maintaining automatically activates to maintain the lid in the closed position while the press plate is being driven towards the lid.

62. A food press comprising:

a hopper with a lid, the lid having an open position and a closed position;

means for maintaining the lid in the closed position when the means for maintaining is activated and to discontinue maintaining the lid in the closed position when the means for maintaining is deactivated;

a press plate vertically slidable within the hopper;

the hopper being adapted to accept food between the lid and the press plate;

the press plate adapted to be driven towards the lid in order to compress the food between the press plate and the lid within the hopper;

wherein the means for maintaining automatically deactivates to discontinue maintaining the lid in the closed position after the food has been compressed within the hopper.

63. The food press of claim 9, further comprising:

a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.

64. The food press of claim 25, further comprising:

a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.

65. The food press of claim 45, further comprising:

a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.

66. The food press of claim 55, further comprising:  
a knife assembly adapted to protrude through the press plate and divide the food into an equal number of pieces.